

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA**

THE KRYSTAL COMPANY,	)	
	)	
Plaintiff,	)	
	)	No. 1:06-CV-156
v.	)	
	)	
FAB FORTY, INC., FAB FORTY ONE, INC.,	)	Chief Judge Curtis L. Collier
FAB FORTY TWO, INC. and TIMOTHY	)	
N. BEALS	)	
	)	
Defendants.	)	

**ORDER TO SHOW CAUSE**

Before the Court is Plaintiff The Krystal Company's ("Krystal") Motion for Contempt (Court File No. 20)(the "Motion") for the defendants' failure to comply with the Court's July 24, 2006 Order (Court File No. 15). Defendants Fab Forty, Inc., Fab Forty One, Inc., and Fab Forty Two, Inc. (collectively, "Fab Forty Defendants") were enjoined from the use of Krystal's trademarks, trade names, logos, designs, and business and merchandising systems by the Court's Temporary Restraining Order issued on July 14, 2006. Following a hearing on July 24, 2006, the Court issued a Preliminary Injunction (Court File No. 15) which ordered Fab Forty Defendants and Defendant Timothy N. Beals ("Defendant Beals"):

Shall by August 14, 2006, de-identify the three locations, including removing any signs bearing any Krystal trade names or trademark and repainting the building in color schemes which are not confusingly similar to Krystal's characteristic red and white exterior colors.

(Court File No. 15 at 3). Krystal's attorney, Karl M. Terrell, was contacted by Defendant Beals on August 14, 2006. Defendant Beals stated he "had not been able to remove the signs at the three former Krystal restaurant locations" (Decl. of Karl M. Terrell, Court File No. 20 at 3). On August

31, 2006, Mr. Terrell spoke again with Defendant Beals, who stated the signs have not been removed (*id.* at 4).

Since it appears Defendant Beals does not respect either of the Court's orders to remove Krystal's signs from Fab Forty Defendants' locations as specified in the orders, it is hereby **ORDERED** that Fab Forty Defendants and Defendant Beals shall appear before the United States District Court for the Eastern District of Tennessee, presided over by the Honorable Curtis L. Collier, in the United States Courthouse, located at 900 Georgia Avenue, Chattanooga, Tennessee 37402, on **September 20, 2006 at 10:00 a.m.**, in the third floor courtroom to show cause why each should not be held in contempt of this Court and appropriately sanctioned for failure to obey the July 24, 2006 Order of this Court.

**IT IS FURTHER ORDERED** that the United States Marshals Service make necessary arrangements to ensure personal service of this Order as soon as possible on Defendant Beals, individually, and on Defendant Beals in his position as registered agent for Fab Forty Defendants.

**IT IS FURTHER ORDERED** that, within ten (10) days of service of copies of this Order upon Defendant Beals and Fab Forty Defendants, Defendant Beals and Fab Forty Defendants shall file and serve, by first class United States mail or commercial overnight delivery service, upon counsel of record for Krystal a written response in opposition to the Motion, which should be supported by appropriate affidavit(s).

**IT IS FURTHER ORDERED** that, only those issues raised by the Motion, and any response in opposition to the Motion, will be considered by the Court in its consideration of the Motion; any uncontested allegations in the Motion will be considered as conclusively admitted as against Defendant Beals and Fab Forty Defendants; affidavits in opposition to the Motion shall be

made on personal knowledge, shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein; and any affidavit in opposition failing to comply with this standard shall not be considered by the Court.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**